



Wiley Rein & Fielding LLP

1776 K STREET NW  
WASHINGTON, DC 20006  
PHONE 202.719.7000  
FAX 202.719.7049

Virginia Office  
7925 JONES BRANCH DRIVE  
SUITE 6200  
McLEAN, VA 22102  
PHONE 703.905.2800  
FAX 703.905.2820

[www.wrf.com](http://www.wrf.com)

February 5, 2002

Suzanne Yelen  
202.719.4287  
[syelen@wrf.com](mailto:syelen@wrf.com)

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: CC Docket Nos. 01-338, 96-98, and 98-147

Dear Ms. Dortch:

Attached please find a letter sent to Chairman Michael Powell and Commissioners Kathleen Q. Abernathy, Michael J. Copps, Kevin J. Martin, and Jonathan S. Adelstein. I would appreciate it if you would please place a copy in each of the dockets noted above.

Please let me know if you have any questions.

Sincerely,

Suzanne Yelen

Attachment



Vice President  
Legal and Regulatory Affairs

February 5, 2003

Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: CC Docket Nos. 01-338, 96-98, and 98-147, Competition in Puerto Rico

Dear Chairman Powell:

In our December 30, 2002 letter, Puerto Rico Telephone Company ("PRTC") provided concrete statistics and marketplace evidence demonstrating that CLECs in Puerto Rico are not impaired without access to unbundled local switching or UNE-P.<sup>1</sup> In particular, PRTC explained that facilities-based inter-modal competition is thriving in Puerto Rico: the Island's unique size has enabled wireless to be a true, viable substitution for wireline, with the number of wireless phones (1.4 million) *exceeding* the number of wireline phones (1.3 million) in Puerto Rico. Likewise, PRTC demonstrated that carriers are not impaired without access to unbundled switching to provide voice services: CLEC switches in Puerto Rico are capable of serving the entire geographic area of Puerto Rico—thereby providing all CLECs a ubiquitous alternative to PRTC's switching. Indeed, one CLEC currently provides service to 70% of the municipalities in Puerto Rico. Thus, CLECs in Puerto Rico, as in the mainland, are not impaired without access to UNE-P or unbundled switching.

Despite this burgeoning competition, WorldNet Telecommunications Inc. ("WorldNet") filed a recent letter premised on inaccurate and misleading statements concerning PRTC and the state of competition in Puerto Rico.<sup>2</sup> As shown below, an

<sup>1</sup> *Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers and Implementation of the Local Competition Provisions of Telecommunications Act of 1996*, CC Docket Nos. 01-338, 96-98, and 98-147, Letter from Suzanne Yelen, Counsel for Puerto Rico Telephone Company, to Marlene Dortch, Secretary for the Federal Communications Commission, Re: Competition in Puerto Rico (filed December 30, 2002).

<sup>2</sup> *Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers and Implementation of the Local Competition Provisions of Telecommunications Act of 1996*, CC Docket Nos. 01-338, 96-98, and 98-147, Letter from Lawrence R. Freedman, Counsel for WorldNet Telecommunications, Inc. to

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examination of WorldNet's erroneous factual assertions demonstrates that WorldNet's conclusions are unfounded and, as a result, should be afforded no weight by the Commission.

WorldNet's letter contains several glaring errors – the foremost being that it is plagued by internal inconsistencies. For example, WorldNet states that PRTC is the “monopoly provider.”<sup>3</sup> Yet, WorldNet later exposes the fallacy of this unsubstantiated allegation on several occasions. First, WorldNet concedes that a facilities-based CLEC in Puerto Rico has deployed multiple switches that, WorldNet claims, are all “operating at full capacity.”<sup>4</sup> In addition, using resale, CLECs, including WorldNet, have already captured 43,000 business lines—roughly 14 percent of the business market, not including those lines served by facilities-based carriers. Indeed, WorldNet touts that it has obtained “many key customers in Puerto Rico,” which are almost entirely large business customers

Likewise, WorldNet's arguments regarding market share are not only incorrect, but they are also irrelevant. Congress directed the Commission to examine whether carriers are impaired without access to an element; market share is not part of this test and is not properly considered by the FCC under Section 251(d)(2). In addition, WorldNet's argument that PRTC has a 94 percent share of the residential/small business market,<sup>5</sup> although WorldNet fails to provide any citation or source to support this statistic, is inaccurate. Because wireless lines are rapidly displacing wireline service, as noted above, there is no doubt that WorldNet's figures overestimate PRTC's market share and underestimate the competitors' share of the market. Moreover, it appears that WorldNet might have taken its alleged market share from an annual Commission report on the Status of Local Telephone Competition. If so, WorldNet misrepresents the Commission's analysis because the 94 percent figure reflects the percent of PRTC's lines that serve residential/small businesses—not PRTC's market share.<sup>6</sup> Even assuming that

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Marlene Dortch, Secretary for the Federal Communications Commission, Re: WorldNet Telecommunications, Inc.'s Ex Parte Comments, (filed January 6, 2003) (hereinafter “WorldNet Letter”); see also *Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers and Implementation of the Local Competition Provisions of Telecommunications Act of 1996*, CC Docket Nos. 01-338, 96-98, and 98-147, Letter from Lawrence R. Freedman, Counsel for WorldNet Telecommunications, Inc. to Marlene Dortch, Secretary for the Federal Communications Commission, Re: January 16 Meeting (filed January 17, 2003); *Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers and Implementation of the Local Competition Provisions of Telecommunications Act of 1996*, CC Docket Nos. 01-338, 96-98, and 98-147, Letter from Lawrence R. Freedman, Counsel for WorldNet Telecommunications, Inc. to Marlene Dortch, Secretary for the Federal Communications Commission, Re: January 17 Meeting (filed January 17, 2003).

<sup>3</sup> WorldNet Letter at 2.

<sup>4</sup> WorldNet Letter at 4.

<sup>5</sup> WorldNet Letter at 3.

<sup>6</sup> See FCC Report, *Local Telephone Competition, Status as of December 31, 2001*, Table 9, Industry Analysis and Technology Division Wireline Competition Bureau, July 2002, available at [http://www.fcc.gov/Bureaus/Common\\_Carrier/Reports/FCC-State\\_Link/IAD/lcom0702.pdf](http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0702.pdf). Indeed, it is immediately apparent from the Report that the figures represent the percentage of individual ILEC and CLECs lines serving residential/small business customers, not market share. In New York, for example,

WorldNet's figures were accurate, however, the 6 percent CLEC share of the residential and small business market (which equates to approximately 60,000 lines) exceeds that of states where the Commission has found such markets "irreversibly open" to local competition.<sup>7</sup> In the end, WorldNet's unsupported allegation that PRTC is a monopolist does not withstand scrutiny.

WorldNet also incorrectly alleges that PRTC "has not deployed one single UNE."<sup>8</sup> PRTC has in fact done so, and, indeed, in the next sentence, WorldNet claims that PRTC has not billed WorldNet correctly for UNEs.<sup>9</sup> Obviously, if PRTC had not provided UNEs, as WorldNet first alleges, there would be no UNE billing disputes between PRTC and WorldNet. Once again, WorldNet has discredited its own allegations.

In addition to internal inconsistencies, WorldNet's letter includes several other factual errors and misrepresentations. First, WorldNet claims that it is the only reseller with locally-based sales and support staff. In so doing, WorldNet fails to mention the facilities-based provider already discussed by WorldNet, Centennial, as well as the 5 other CLEC/resellers, including TLD, Primus, IslaNet, Fast Access, and Metro Teleconnect, that are actively providing competitive local exchange services and maintain local staff and support in Puerto Rico.

Second, WorldNet claims that only 3 of the 108 switches in Puerto Rico are owned by CLECs. This number is not only inaccurate, but WorldNet's figures compare apples to oranges by attempting to include all of PRTC switches and remotes, yet only exclude CLEC host switches. In reality, PRTC has 31 host switches and CLECs have 4 host switches. And, importantly, CLECs have a ubiquitous alternative to PRTC's networks because, as noted above, the 4 CLEC host switches in Puerto Rico can serve the entire island.

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the percentage of ILEC lines serving residential/small business customers is 69%, and the percentage of CLEC lines serving residential/small business customers is 61%. Applying WorldNet's market share interpretation of the Table demonstrates its error: the ILECs' 69% and the CLECs' 61% would lead to a market where the CLEC/ILEC share is 130%.

<sup>7</sup> See e.g., *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina*, at 22 (CLECs have 5.5% residential market in Mississippi, 4.0% of the residential lines in Kentucky); 23 (CLECs have 3.6% of the residential market in North Carolina and 4.5% of the residential market in South Carolina), WC Docket No. 02-150 (filed June 20, 2002). The Commission granted BellSouth inter-LATA authority in all of these states, finding that BellSouth had opened its markets to competition. See *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina*, 17 FCC Rcd 17595, WC Docket No. 02-150 (Opinion and Order) (2002).

<sup>8</sup> WorldNet Letter at 5.

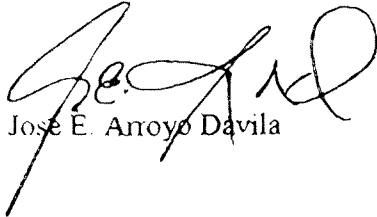
<sup>9</sup> WorldNet Letter at 5.

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Long on rhetoric, but devoid of concrete facts, WorldNet's attempt to mask the true state of competition in Puerto Rico fails. In the end, WorldNet's own admissions and inconsistencies confirm that CLECs are not impaired without access to unbundled local switching and UNE-P in Puerto Rico.

Cordially yours,

A handwritten signature in black ink, appearing to read "Jose E. Arroyo Davila". The signature is fluid and stylized, with a large loop at the end.

Jose E. Arroyo Davila

cc: Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Kevin J. Martin  
Commissioner Jonathan S. Adelstein